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**KIRIRI WOMENS' UNIVERSITY OF SCIENCE AND TECHNOLOGY**  
**UNIVERSITY EXAMINATION, 2024/2025 ACADEMIC YEAR**  
**FOURTH YEAR, FIRST SEMESTER EXAMINATION**  
**FOR THE DEGREE OF BACHELOR OF SCIENCE**  
**(BUSINESS ADMINISTRATION)**

Date: **9<sup>th</sup> December, 2024**  
Time: **8.30am – 10.30am**

**KBA 2424 - COMPANY LAW**

**INSTRUCTIONS TO CANDIDATES**

**ANSWER QUESTION ONE (COMPULSORY) AND ANY OTHER TWO QUESTIONS**

**QUESTION ONE (30 MARKS)**

A limited-liability company is one of man's greatest inventions. The company encourages co-operation by allowing people to join together under the same organizational roof regardless of race, creed or nationality'. Chapa Kazi Ltd is a small family-owned company operating a chain of restaurants. The company has of late been facing financial difficulties. One reason being that the company's directors have been using company's funds for personal expenses. As a result, the company has not been honoring its obligations to its creditors. The creditors are now contemplating suing the company directors. Before the company was incorporated Chapa and Kazi approached Ben Apollo and borrowed Sh. 50,000,000. After incorporation, the two have defaulted to pay the loan claiming that the Chapa Kazi Ltd. never entered into an agreement with Ben Apollo.

- a) Advise the creditors on the viability of their intention to sue the Chapa kazi company directors.  
(6 marks)
- b) With reference to company law and reflecting on the rule captured above advice Ben Apollo on how to recover his loan, based on the agreement entered into before Chapa Kazi was incorporated.  
(5 marks)
- c) Examine any **four** ways in which one may become a company member.  
(4 marks)
- d) Reflecting on the above case study describe the provisions of the Companies Act, 2015 under which a company may buy back its shares.  
(4 marks)
- e) Reflecting on the above case study discuss the rule in *Turquand's case*.  
(6 marks)
- f) 'In the management of company affairs, the general rule is that the majority must prevail... however, while exercising a legitimate right, the majority must do so within the confines of the law and without infringing on the rights of the minority. Advise the minority shareholders on their rights against majority shareholders in chapa Kazi  
(6 marks)

## **QUESTION TWO (20 MARKS)**

- a) While the Companies Act 2015 does not seek to strictly dictate to a company what name it ought to choose, some restrictions may cause the registrar to refuse to register a company's name unless it changes its proposed name. Explain any five circumstances under company law when a name choice may be limited, and set out whether these limitations are justified. (5 marks)
- b) A floating charge is a security that floats over the general assets of a company until something happens by which it crystallizes ... With the use of concrete examples, analyse the circumstances under which a floating charge will crystallize (5 marks)
- c) Examine any five ways in which a company may raise capital. (10 marks)

## **QUESTION THREE (20 MARKS)**

- a) 'One of the intentions of the drafters of the Companies Act 2015 was to improve the standard of corporate governance in companies.' Assess the provisions of the Companies Act 2015 regarding the duties of directors, and discuss to what extent the duties are reflective of the new emphasis on improving the governance of companies. (10 marks)
- b) Daniella, a student of company law, has been invited to make a speech to the graduating cohort of the company law class. He would like to write a speech on winding up. He asks you for assistance. Describe to him any **five** grounds upon which a company may be wound up where it is just and equitable to do so. (10 marks)

## **QUESTION FOUR (20 MARKS)**

- a) 'The rule of indoor management under the Companies Act 2015 has extended the protections to third parties who deal with a company, far more than was the case previously.' Reflecting on the above statement, and with the aid of concrete examples, evaluate the rule of indoor management. (10 marks)
- b) 'In determining whether any...breach of duty has been committed, it is essential to consider what the duties of an auditor are. ...Shortly they may be stated thus: It is the duty of an auditor to bring to bear on the work he has to perform that skill, care, and caution which a reasonably competent, careful, and cautious auditor would use...An auditor ... is a watch-dog, but not a bloodhound. He is justified in believing tried servants of the company in whom confidence is placed by the company. He is entitled to assume that they are honest, and to rely upon their representations, provided he takes reasonable care. If there is anything calculated to excite suspicion, he should probe it to the bottom; but in the absence of anything of that kind he is only bound to be reasonably cautious and careful,' *per* Lord Justice Lopes, *Re King's Cotton Mill* [1896]. Reflecting on the above statement, and with regard to the relevant provisions of the Companies Act 2015, evaluate the duties of an auditor, and set out whether you agree with the statement. (10 marks)

## **QUESTION FIVE (20 MARKS)**

- a) Explain the principle of lifting the veil of incorporation, and with the aid of concrete examples, analyse **five** circumstances under which the veil of incorporation will be lifted under statute law. (10 Marks)
- b) A meeting is the coming together of more than one person. Describe the exceptions to the Rule in *Sharp v Dawes* [1876]. (10 marks)